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FISCAL IMPACT STATEMENT

LS 6505

BILL NUMBER: SB 148

NOTE PREPARED: Jan 31, 2011

BILL AMENDED:

SUBJECT: Inheritance Tax and Estate Tax.

FIRST AUTHOR: Sen. Banks

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill phases out the Inheritance Tax beginning July 1, 2013, by giving an increasing credit against the inheritance tax due. It provides that the Inheritance Tax does not apply to the transfer of property interests by a decedent whose death occurs after June 30, 2018. It phases out payments of the Inheritance Tax replacement amount to counties over a period between 2013 and 2018. The bill also provides that the Estate Tax and Generation Skipping Transfer Tax do not apply after June 30, 2018, and makes technical corrections.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Department of State Revenue (DOR):* If the Inheritance Tax ceases to apply to property and estates of those who die after June 30, 2018, there could be a savings to the state from a reduction in staff of the Inheritance Tax section of the DOR. The November 1, 2010, state staffing table indicates that the Inheritance Tax Division has eight full-time employees with a total annual salary of \$284,962. Since staff will be needed to process returns during the phaseout of the Inheritance Tax, a specific savings due to staff reductions could not be estimated.

Explanation of State Revenues: (Revised) *Summary* - The bill would lead to progressively larger reductions in Inheritance Tax revenues from FY 2015 through FY 2020 when the tax would be eliminated and no longer generating revenue. The impact on revenues from the phaseout of the Inheritance Tax is shown in the table below.

Fiscal Year Impact	Inheritance Tax Revenue Loss
2015	(\$40.5 M)
2016	(\$54.0 M)
2017	(\$67.5 M)
2018	(\$81.0 M)
2019	(\$101.3 M)
2020 and after	(\$135.0 M)
Note: Rows may not sum due to rounding.	

The bill also provides that the Estate Tax and Generation Skipping Transfer Tax do not apply after June 30, 2018. The bill could potentially have the following impacts on state revenues:

(1) Elimination of potential future revenue from the Indiana Estate Tax: *The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (P. L. 111-312), signed into law on December 17, 2010, exempts the first \$5 M (\$10 M for married couples) of an estate from the Federal Estate Tax and applies a tax rate of 35% for 2011 and 2012. P. L. 111-312 also extended the state death tax deduction through 2012 (in lieu of the state death tax credit which was eliminated for the deduction in 2005). Under the state death tax deduction, Indiana does not collect Estate Tax because the tax is tied to the old state death tax credit instead. The extensions in P. L. 111-312 will sunset on December 31, 2012. It is unknown whether Congress will extend the current Federal Estate Tax after this date, create a new Estate Tax, or allow via inaction the Estate Tax as it existed in 2001 to return in 2013. It is also unknown what the applicable tax rate and exemption amounts will be in 2018 or whether a state death tax deduction or credit will be in place at that time. Annual Estate Tax collections totaled \$20 M to \$25 M immediately prior to the federal law changes in 2001.

(2) Elimination of potential future revenue from the Indiana Generation Skipping Transfer Tax: The revenue loss from elimination of the Generation Skipping Transfer Tax would be minimal. Since FY 1993, the tax reportedly generated no revenue except in FY 2004 (\$31,254) and FY 2005 (\$3,637).

Background Information - The bill phases out the Inheritance Tax over a six-year period specified in the table below by providing an increasing credit against a beneficiary's Inheritance Tax liability. The credit would apply to transfers made by persons who die within the dates specified in the following table. Since the Inheritance Tax must be paid within 12 months after the decedent's death (within 9 months to receive the 5% early payment discount), the bulk of the impact of the first year's credit (equal to 15%) would not be experienced until FY 2015.

Inheritance Tax Credit	Transfers made from persons dying . . .
30%	After June 30, 2013, and before July 1, 2014
40%	After June 30, 2014, and before July 1, 2015
50%	After June 30, 2015, and before July 1, 2016
60%	After June 30, 2016, and before July 1, 2017
75%	After June 30, 2017, and before July 1, 2018
100%	After June 30, 2018

The estimated impact of the phaseout of the Inheritance Tax is based on the Revenue Technical Committee's FY 2012 forecast (published December 15, 2010). This forecast estimates FY 2012 Inheritance Tax at \$135 M. The estimated revenue loss from the exemption assumes that Inheritance Tax revenues would remain relatively constant in the future, absent the phaseout.

Under current Indiana statutes, Indiana Estate Tax is owed on the assets of an estate if: (1) Federal Estate Tax is owed on the estate; and (2) the Indiana portion of the state death tax credit applicable to the Federal Estate Tax exceeds the total Indiana Inheritance Tax paid by transferees of the estate. The Indiana Estate Tax is equal to the difference between the state death tax credit under the Federal Estate Tax and the Indiana Inheritance Tax. However, under the *Economic Growth and Tax Relief Reconciliation Act of 2001* (P. L. 107-16), the state death tax credit was eliminated for estates of decedents who died after December 31, 2004. This elimination was extended through 2012 under the *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (P. L. 111-312).

Like the Indiana Estate Tax, the Indiana Generation Skipping Transfer Tax is also linked to the federal version of the tax via the federal Generation Skipping Transfer Tax credit. The federal Generation Skipping Transfer Tax was repealed under the *Economic Growth and Tax Relief Reconciliation Act of 2001* (P. L. 107-16), but the repeal sunsetted on December 31, 2010.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Summary* - The phaseout of the Inheritance Tax could result in an annual revenue loss to counties beginning in FY 2015.

Fiscal Year Impact	Local Share of Inheritance Tax Revenue Loss
2015	(\$3.5 M)
2016	(\$4.7 M)
2017	(\$5.8 M)
2018	(\$7.0 M)
2019	(\$8.7 M)
2020 and after	(\$11.6 M)

This bill provides a phaseout of the county guarantee beginning in FY 2014 and ending before FY 2019. Based upon the FY 2012 Inheritance Tax forecast, counties are estimated to receive about \$11.6 M in Inheritance Tax revenue. While the phaseout of the Inheritance Tax will decrease revenue to counties, in the aggregate, it should not trigger replacement payments because of the phaseout of the county guarantee. Inheritance Tax revenue to counties may still fall short of the guarantee on an individual county basis and trigger replacement payments, but it is not known to what extent this may occur. The table below provides the new county guarantees by fiscal year calculated by the phaseout percentages provided in the bill.

Fiscal Year	Current County Guarantee	Phaseout Percentage	New County Guarantee	Local Share Revenue
2014	\$7.4 M	70%	\$5.2 M	\$11.6 M
2015	\$7.4 M	60%	\$4.5 M	\$8.2 M
2016	\$7.4 M	50%	\$3.7 M	\$7.0 M
2017	\$7.4 M	40%	\$3.0 M	\$5.8 M
2018	\$7.4 M	25%	\$1.9 M	\$4.7 M
2019	\$7.4 M	0	0	0

Background Information - Counties retain 8% of the Inheritance Tax collected on transfers made by Indiana residents. Counties are guaranteed a statutorily determined amount as determined by the replacement provision established by P.L. 254-1997. The replacement provision was established to replace county Inheritance Tax revenue lost when the Class A exemption was increased on July 1, 1997. The replacement provision guarantees that each county receives Inheritance Tax revenue equal to the five-year annual average amount of Inheritance Tax received by that county from FY 1991 to FY 1997, excluding the highest and lowest years. The total annual guarantee to counties is approximately \$7.4 M, with replacement payments averaging about \$168,000 since FY 2000.

State Agencies Affected: DOR.

Local Agencies Affected: Counties.

Information Sources: State Revenue Forecast (December 15, 2010); *Quarterly Inheritance Tax Reports*, FY 1993- FY 2010.

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